

REMARKS

Claims 1-6 are pending. The sole independent claim, Claim 1 recites: "A compound, comprising: a targeting moiety and a chelator, **wherein the targeting moiety is bound to the chelator, is a indazole nonpeptide, and binds to a receptor** that is upregulated during angiogenesis and the compound has 0-1 linking groups between the targeting moiety and chelator." Dependent Claim 2 recites in part: "A **compound according to Claim 1**, wherein the receptor is the integrin $\alpha_v\beta_3$ or $\alpha_v\beta_5$ and the compound is of the formula: $(Q)_d-L_n-C_h$ or $(Q)_d-L_n-(C_h)_d'$ wherein, **Q is independently a compound of Formula (Ia) or (Ib) ...**".

The Examiner has required restriction under 35 U.S.C. § 121 between two groups of claims. Group I covers Claims 1-6 having Formula Ia or Ib where X^{1d-4d} are carbon, whereas Group II covers Claims 1-6 having Formula Ia or Ib where X^{1d-4d} are not all carbon.

Reference to Formulae Ia and Ib with regard to Claim 1 is improper, as they are not recited in Claim 1. Applicants respectfully traverse the rejection.

The Examiner finds that Groups I and II are patentably distinct. ***Applicants need not address this, because the Groups are joined a linking claim - Claim 1.*** MPEP §809.03 states: "The most common types of linking claims which, if allowed, act to prevent restriction between inventions that can otherwise be shown to be divisible, are (A) genus claims linking species claims ...". Claim 1 recites a genus, "indazole," broad enough to cover, as the Examiner admits, "any and all indazole." Thus, it necessarily links Formulae Ia and Ib together.

Applicants also question whether a search of six claims is a serious burden when the Examiner was in charge of the present application's parent case, U.S. Patent No. 6,794,518.

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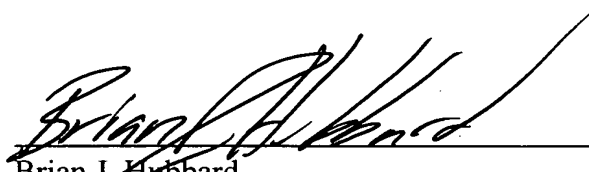
The Examiner has also required an election of a single species for claim 6. It is Applicants' understanding that this election is being made to aid the Examiner in conducting a search and examination of the claimed subject matter, and is not to be construed as limiting the scope of Applicants' claims. It is also Applicants' understanding that if the elected subject matter is found to be allowable over the prior art, the search and examination will be expanded to cover other species, until it includes the full scope of the generic claims included in the elected group. Applicants hereby elect a species of 2-(((4-(4-(((3-(2-(2-(3-(((6-((1-aza-2-(2-sulfophenyl)vinyl)amino)(3-pyridyl))carbonylamino)propoxy)-ethoxy)ethoxy)propyl)amino)sulfonyl)phenyl)phenyl)sulfonyl)amino)-3-((1-(3-(imidazole-2-ylamino)propyl)(1H-indazol-5-yl))carbonylamino)propanoic acid.

Applicants elect Group I with traverse in order to comply with 37 CFR § 1.143.

If the Examiner has any questions, he is invited to call the undersigned representative at (215) 568-3100.

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Brian J. Hubbard
Registration No. 45,873

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439